

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JUAN BRADLEY,)	8:10CV443
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
CORPORAL PERRY, FRED)	
BRITTEN, Warden, and WARREN K.)	
URBOM,)	
)	
Defendants.)	

On December 1, 2010, the court required Plaintiff to either show cause why he is entitled to proceed in forma pauperis (“IFP”) pursuant to the provisions of [28 U.S.C. §1915\(g\)](#) (“§ 1915(g)”), or pay the full \$350 filing fee. (Filing No. [6](#).) In response, Plaintiff filed a “Motion to Reassign Judge Richard Kopf.” (Filing No. [7](#).) The court has carefully reviewed Plaintiff’s Motion and finds that this matter should be dismissed.

I. BACKGROUND

On November 29, 2010, while incarcerated, Plaintiff filed a Complaint (filing no. [1](#)) and a Motion for Leave to Proceed IFP (filing no. [2](#)). The court thereafter ordered Plaintiff to either show cause why he is entitled to proceed IFP or pay the full \$350 filing fee, or his case would be dismissed. (Filing No. [6](#).) The court’s previous Memorandum and Order was based on the court’s finding that Plaintiff brought the following four cases while incarcerated, all of which were dismissed as frivolous:

- *Bradley v. Urbom*, No.8:92CV54 (D. Neb.), dismissed as frivolous on March 10, 1992.
- *Bradley v. The Senate*, No. 8:92CV96 (D. Neb.), dismissed as frivolous on May 7, 1992.

- *Bradley v. U.S. District Court*, No. 8:92CV127 (D. Neb.), dismissed as frivolous on March 13, 1992.
- *Bradley v. Urbom*, No. 8:92CV188 (D. Neb.), dismissed as frivolous on April 13, 1992.

On December 6, 2010, Plaintiff filed a “Motion to Reassign Judge Richard Kopf.” (Filing No. [7](#).)

II. ANALYSIS

A prisoner may not bring a civil action or proceed IFP if the prisoner has, on three or more occasions, while incarcerated, brought an action or appeal in federal court that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted. [§ 1915\(g\)](#). An exception is made for prisoners who are under imminent danger of serious physical injury. *Id.*

In its previous Memorandum and Order, the court ordered Plaintiff to show cause why his case should not be dismissed pursuant to [§ 1915\(g\)](#). (Filing No. [6](#).) The court listed four cases brought by Plaintiff that were dismissed as frivolous. (*Id.* at CM/ECF p. 1.) For Plaintiff to proceed IFP, he needed to show the court that at least two of the four dismissed cases do not meet the criteria set forth in [§ 1915\(g\)](#) or, alternatively, that he faces imminent danger of serious physical injury.

In response, Plaintiff filed a “Motion to Reassign Judge Richard Kopf.” (Filing No. [7](#).) In his Motion, Plaintiff seeks to have his Complaint redressed but also requests that “all federal court Judges and clerks leave office” (*Id.* at CM/ECF pp. 1-2.) The court has carefully reviewed Plaintiff’s Motion. In accordance with [28 U.S.C. § 455\(a\)](#), the court finds that there is nothing indicating that the undersigned judge’s “impartiality might reasonably be questioned” or that there is any other basis for recusal or reassignment in this matter. Moreover, the Rule of Necessity provides that if a judge who would ordinarily hear the case is likely to disqualify himself because of his interest

in its outcome, he may hear the case if, otherwise, it would not be heard at all. United States v. Will, 449 U.S. 200, 212-14 (1980). Here, considering Plaintiff's request that all federal court judges and clerks leave office, and also considering the frivolous nature of Plaintiff's allegations, which is apparent from the face of his Complaint, the court determines that "this is the type of situation in which the long-standing Rule of Necessity applies." See Complaint of Doe, 2 F.3d 308, 310 (8th Cir. 1993). Accordingly, Plaintiff's Motion (filing no. 7) is denied.

In short, Plaintiff has not complied with the court's December 1, 2010, Memorandum and Order. Plaintiff has not shown that he is entitled to proceed IFP, nor has he paid the full \$350 filing fee. For these reasons, this matter must be dismissed.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion to Reassign Judge Richard Kopf (filing no. 7) is denied.
2. This matter is dismissed without prejudice.
3. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 12th day of January, 2011.

BY THE COURT:

Richard G. Kopf
United States District Judge

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